

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17048 of 2015

Arising Out of PS.Case No. -170 Year- 2014 Thana -BARAULI District- GOPALGANJ

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Jahangir son of Late Sheikh Ayub @ Late Md. Ayub, Resident of village-
Bishesarpur, P.S.- Barauli, District- Gopalganj

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh

For the Opposite Party/s : Mr. Anusuiya Jaiswal(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 17-08-2015

Heard learned counsel for the parties.

The petitioner, a retired Headmaster, having been made accused for offence under Sections 409/34 of the Indian Penal Code after almost five years of his retirement, has come out to rely on a communication of the successor Headmaster of the school that the fund for construction of the building to the tune of Rs. 6,40,000/- remains safe in the sense that Rs. 5,31,066/- is still in the bank and the rest of the amount, which was spent by Jai Prakash Vidyarthi, a teacher of the school, by making payment for procuring bricks and cement, is part of accounting of the aforesaid bank. As a matter of fact either from the First Information Report or from the order of the court below, it does not transpire as to how the petitioner, after retirement, on account of being given no

dues certificate had received full payment of retirement benefit, could be held to be guilty for misappropriation of the government money and that too after five years of his retirement.

Considering all these aspects and that the petitioner has got no criminal antecedent, this Court would direct the petitioner, namely, Jahangir, to surrender before the Court below within a period of four weeks from today and, if he does so, he shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Gopalganj in connection with Barauli P.S. Case No. 170 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) That the court below shall make verification of criminal antecedent of the petitioner and if it is found that he is accused in any other criminal case, he shall not be granted bail and would be taken into custody.
- (ii) That both the bailors will be a close relative of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the petitioner.

(iii) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.

(iv) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(v) That the petitioner will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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